

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF TIM HAENER
from the decision of the Board of Equalization of Idaho
County for the tax year 2007.

) APPEAL NO. 07-A-2493
) FINAL DECISION AND
) ORDER

AGRICULTURAL EXEMPTION APPEAL

NOTICE OF APPEAL was filed August 9, 2007 by Appellant, from a decision of the Idaho County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP30N03E333025A. As a matter of convenience, this appeal was heard on the written record of evidence and argument presented, without appearance at a hearing. This Board subsequently requested all information and evidence to be considered be submitted by both parties. The Board now issues its decision based upon the documentary record.

The issue on appeal is whether subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-604.

The decision of the Idaho County Board of Equalization is reversed.

FINDINGS OF FACT

The total assessed value is \$73,552. Appellant requests an agriculture exemption on the subject land and resulting in value of roughly \$49,500.

The subject property is approximately ten acres of non-irrigated land located in Idaho County.

Appellant stated the 2007 property assessment for subject was erroneous. The assessment was flawed due to uncertainty as to the "intent of the land" and concern on behalf of the County as to property in the area being split several times over the past few years and sold residentially. Taxpayer asserted the land was in compliance with the Idaho Code § 63-112

definition of agricultural property. As such, subject is entitled to receive the agricultural exemption.

In 2006, Appellant created a Limited Liability Partnership (LLP) called "TCME Farms." Appellant submitted documentation as to the creation of the LLP to support the claim subject was being used as agricultural land. The documents submitted included; a check for \$100 written out to the Secretary of State for the application fee to create the LLP dated December 18, 2006, a Statement of Qualification from the Secretary of State dated December 18, 2006, Registration of the LLP with the Idaho State Tax Commission dated December 18, 2006, Idaho State Tax Commission's Seller's Permit effective February 1, 2006, and the IRS assignment of EIN 20-80-8362 dated December 26, 2006.

Other documents submitted to demonstrate the agricultural use of subject for business purposes were as follows; Idaho State Tax Commission Sales Tax for 2007 dated January 1, 2008 which showed \$850 in net sales from Appellant's portion of the crops, a 2007 IRS Form 1065 US Return of Partnership Income for the LLP dated March 22, 2008 and a 2007 IRS Schedule E Supplemental Income form for the LLP dated March 22, 2008.

The County stated in order for land to receive an agricultural exemption the property owner must apply for the exemption by the deadline of March 15 and meet the requirements. Exemptions are granted for the owner and do not necessarily stay with the land. The Respondent further contended Idaho Code states that unless an exemption is applied for and granted the land will be assessed at full market value. An exemption form was filed by Appellant, but was not received until July 31, 2007. Respondent noted subject will be considered agricultural for 2008 because the deadline has been met for that year, but not for 2007.

The Assessor alleged that on the Agricultural Form Appellant had stated the land was

used as hay ground and not for grazing. According to the form the land produced forty tons of hay, which is a large amount of hay to be produced and is abnormal for the area. The Assessor wanted Appellant to clarify if the land was grazing or hay ground, and what the actual yield of the hay was.

It was the Respondent's conclusion that since Mr. Haener did not file the necessary papers for the agricultural exemption until after the deadline of March 15, subject is not entitled to the Agricultural Exemption.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following conclusions.

Agricultural land exemptions are granted pursuant to Idaho Code § 63-604. In pertinent part the exemption provides:

- (1) For property tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:
 - (a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:
 - (i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables; . . .

Respondent's main contention for removing the agriculture exemption status was due to Appellant not submitting the Agricultural Exemption Form by the deadline of March 15, 2007. Otherwise it was noted subject would have qualified for the exemption.

Appellant testified and otherwise demonstrated that in 2006 and 2007 subject was being used for harvesting a hay crop. Appellant submitted exhibits which demonstrate the subject

property is being used for agricultural purposes. The record contains no evidence of any other use.

The Board finds no binding or absolute application deadline included in the statute or case law. The record is clear that subject was being used for agricultural purposes during 2007 which supports Appellant's contention that the agricultural exemptions should be granted. Accordingly, the Board will reverse the decision of the Idaho County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Idaho County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed. The subject land shall be taxed as agricultural land.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 30, 2008